

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,)
)
Plaintiff,)
)
vs.)
) Civil No.
Susan Marie Berg;)
Richard Arthur Berg; and
Nathan William Berg,)
)
Defendants.)
)

COMPLAINT

The United States of America alleges as follows:

1. This is a civil action brought by the United States to foreclose federal tax liens against certain real property.
2. This action has been authorized by a delegate of the Secretary of the Treasury of the United States of America and is brought under the direction of the Attorney General of the United States pursuant to Title 26, United States Code, Sections 7401 and 7403 (the Internal Revenue Code of 1986).
3. The Court has jurisdiction over this action pursuant to Title 28, United States Code, Sections 1340 and 1345, and under Sections 7402 and 7403 of Title 26, United States Code.
4. Defendants Susan Marie Berg and Richard Arthur Berg are subject to the jurisdiction of this Court as they reside in Eden Prairie, Minnesota.
5. Defendant Nathan William Berg is subject to the jurisdiction of this Court as he resides in Saint Paul, Minnesota.

6. The real property located at 4406 Churchill Street, Shoreview, Minnesota (hereinafter "Property"), is more particularly described as—

The North 42.50 feet of Lot 4, Block 4, Pat Jordans Addition

in Ramsey County, Minnesota, within the jurisdiction of this Court.

7. The defendants Susan Marie Berg, Richard Arthur Berg, and Nathan William Berg, are made parties to this action pursuant to the provisions of 26 U.S.C. § 7403, and are all persons or entities that may claim an interest in the Property.

8. For the years 1999, 2000, and 2001, Michael D. Brock and Laura R. Brock failed to pay their federal income tax liabilities.

9. By virtue of the Brocks' failure to pay their federal income tax liabilities, federal tax liens arose on the dates of the assessments in favor of the United States and attached to all property and rights to property belonging to Michael D. Brock and Laura R. Brock. At the time the federal tax liens arose, Michael D. Brock and Laura R. Brock held title to the Property.

10. The federal tax liens are described as follows:

Year	Date Tax Assessed	Unpaid Balance Recorded on Lien Notice	Amount Due as of 10/25/2010*
1999	02/04/2002	\$ 2,868.62	\$ 1,211.94
2000	02/11/2002	\$ 2,807.48	\$ 4,725.60
2001	09/15/2002	\$ 5,572.06	\$ 9,014.40
TOTAL: \$ 11,248.16		\$ 14,951.94	
* Interest continues to accrue on the debt until it is satisfied.			

11. On April 30, 1999, James B. Anderson and Barbara J. Anderson, husband and wife, conveyed the Property to Michael Brock and Laura Brock, as joint tenants, by Warranty

Deed recorded as Document No. 3146512 on May 26, 1999, in the Office of the County Recorder for Ramsey County, Minnesota.

12. On April 30, 1999, Michael Brock and Laura Brock, husband and wife, as joint tenants, executed a Mortgage in the amount of \$110,400.00 in favor of Long Beach Mortgage Company which was then recorded as Document No. 3146513 on May 26, 1999, with the County Recorder for Ramsey County, MN.

13. On February 10, 2004, the Internal Revenue Service filed a Notice of Federal Tax Lien in the Office of the County Recorder for Ramsey County, MN, as Document No. 3727767 regarding the unpaid income taxes assessed against Michael D. Brock and Laura R. Brock for 1999, 2000, and 2001, and reflected in ¶ 10, above.

14. Michael D. Brock and Laura R. Brock held title to the Property on February 10, 2004, at the time of the filing of the Notice of Federal Tax Lien.

15. On March 10, 2004, Michael Brock and Laura Brock, as joint tenants, executed a Mortgage in the amount of \$126,000.00 to Ameriquest Mortgage Company which was then recorded as Document No. 3745531 on April 13, 2004, in the Office of the County Recorder for Ramsey County, MN.

16. The Mortgage in favor of Long Beach Mortgage Company described in ¶ 12, above, was satisfied through the Mortgage to Ameriquest Mortgage Company described in ¶ 15, above.

17. On or about April 27, 2006, the Mortgage to Ameriquest Mortgage Company described in ¶ 15, above, was assigned to the WM Specialty Mortgage, LLC, and recorded on May 3, 2006, in the Office of the County Recorder for Ramsey County, MN, as Document No. 3944625.

18. Also on May 3, 2006, a Notice of Pendency of Proceeding to Foreclose Mortgage against the Property dated May 1, 2006, was recorded in the Office of the County Recorder for Ramsey County, MN, as Document No. 3946110.

19. On October 26, 2006, a Notice of Lis Pendens dated October 24, 2006, was filed with the County Recorder for Ramsey County, MN, as Document No. 3986851, and on November 15, 2006, a Notice of Pendency of Proceeding to Foreclose Mortgage dated November 14, 2006, was filed in the same office as Document No. 3991221.

20. Shortly thereafter, on January 30, 2007, Michael and Laura Brock filed a Chapter 13 petition for bankruptcy – *In re Michael Darnail Brock and Laura Rose Brock, Debtors*, Bankr. No. 07-30332-GFK (Bankr. D. Minn.), which case was converted to Chapter 7 on April 26, 2007. Two months later, on June 29, 2007, the trustee gave notice that it was a no asset case, and on August 1, 2007, the Bankruptcy Court entered an order granting the debtors a discharge. The federal tax liens reflected in the previously filed notice of federal tax lien were not extinguished during or by the bankruptcy proceeding and still encumber the Property.

21. A few months later, on October 19, 2007, the WM Specialty Mortgage, LLC, gave notice again of its intent to foreclose the Mortgage assigned to it by filing a Notice of Pendency of Proceeding to Foreclose Mortgage with County Recorder for Ramsey County, MN, as Document No. 4061197.

22. After publication of a notice of foreclosure sale, the Property was sold at auction on December 4, 2007, by the Sheriff of Ramsey County, MN, and a Sheriff's Certificate of Foreclosure Sale for \$147,911.56 dated the same day was filed with the County Recorder for Ramsey County, MN, as Document No. 4068395.

23. Because the federal tax liens enjoyed priority over the Mortgage foreclosed by the WM Specialty Mortgage, LLC, the tax liens still encumber the Property and were not extinguished by the foreclosure sale.

24. On August 15, 2008, WM Specialty Mortgage, LLC, by Citi Residential Lending, Inc., its Attorney-in-Fact, conveyed the Property to Susan Marie Berg and Richard A. Berg, as joint tenants, by a 25-M limited warranty deed dated August 15, 2008, and recorded on November 10, 2008, as Document No. 4126604 with the County Recorder for Ramsey County, MN.

25. On June 4, 2009, Susan Marie Berg and Richard A. Berg, husband and wife, a married couple, conveyed the Property to Susan Marie Berg and Richard A. Berg, a married couple and husband and wife, and Nathan William Berg, a single person, as joint tenants, by a 29-M quit claim deed dated June 4, 2009, and recorded on June 9, 2009, as Document No. 4162811 with the County Recorder for Ramsey County, MN.

26. The United States now seeks to foreclose the federal tax liens that still encumber the Property.

WHEREFORE, the plaintiff, United States of America, asks the Court to:

A. determine that the federal tax liens encumber the Property;
B. decree a sale of the Property by a proper officer of this Court according to law, free and clear of any rights, title, liens, claims or interests of the defendants herein, and each of them, and distribute the proceeds of such sale to the United States and to such defendants in amounts determined by the Court;

C. grant the United States such other relief as the Court deems just and proper, including costs and fees.

DATED: November 18, 2010.

B. TODD JONES
United States Attorney

s/ Mary E. Bielefeld
MARY E. BIELEFELD, DC #384603
Senior Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 7238, Ben Franklin Station
Washington, D.C. 20044
Tel: (202) 514-9375; Fax: (202) 514-6770
E-mail: mary.e.bielefeld@usdoj.gov;
central.taxcivil@usdoj.gov